



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 15, 1992

Ms. Mary Kay Fischer
Assistant City Attorney
City of Galveston
P. O. Box 779
Galveston, Texas 77553-0779

OR92-240

Dear Ms. Fischer:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 15430.

You have received a request for information relating to security measures the City of Galveston (the city) implemented in connection with the February 29, 1992, Mardi Gras Parade. Specifically, the requestor seeks sixteen categories of information, including the number of city police officers, National Guard personnel, and Department of Public Safety personnel assigned to patrol the parade; arrest records; dispatcher logs; the number of city police vehicles on patrol on February 29, 1992; the identity of public officials assigned city police body guards; city revenue collected in connection with Mardi Gras festivities; city expenditures appropriated for Mardi Gras festivities; food, housing, and entertainment expenditures appropriated for city officials; certain city guidelines regulating booths; and other city police work roster information. You assert that "the plan setting out security locations and traffic control for Mardi Gras" is excepted from required public disclosure by section 3(a)(8) of the Open Records Act. Because you do not comment on the remainder of the requested information, we presume it has been or will be made available to the requestor. *See* Open Records Decision No. 363 (1983) (if a governmental body fails to explain how and why a particular exception applies to requested information, it is presumed public).

Section 3(a)(8) excepts:

records of law enforcement agencies and prosecutors that deal with the detection, investigation, and prosecution of crime and the internal records and notations of such law enforcement agencies and prosecutors which are maintained for internal use in matters relating to law enforcement and prosecution.

When the "law enforcement" exception is claimed as a basis for excluding information from public view, the agency claiming it must reasonably explain, if the information does not supply the explanation on its face, how and why release would unduly interfere with law enforcement. Open Records Decision No. 434 (1986) (citing *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977)). Whether disclosure of particular records will unduly interfere with law enforcement must be determined on a case-by-case basis. Open Records Decision No. 409 (1984).

We have examined the documents submitted to us for review and have considered your arguments. You state:

The security and traffic control plan, if revealed, would endanger the life or physical safety of law enforcement personnel, as well as the general public. Its disclosure would place an individual at an advantage in confrontations with police and know the whereabouts and numbers of the officers in strategic locations.

You advise us that the security and traffic control plan is ongoing and currently being implemented by the city.

Previous decisions issued by this office have addressed the applicability of the section 3(a)(8) exception to law enforcement records reflecting the distribution of law enforcement personnel. Open Records Decision No. 456 (1987) involved a request for information relating to the identity of businesses that employ off-duty police officers. Release of the information was denied because it indicated which businesses at which time were not protected. The law enforcement implications of this situation were clear. Similarly, Open Records Decision No. 413 (1984) involved a request for information relating to execution security measures at a specific prison at a specific time. Disclosure was denied to maintain necessary order during the scheduled execution. In each of these cases, the requested information was excepted from required public disclosure because it related to specific locations or specific times. If an individual with criminal intent knows precisely where and when

the opportunities for crime are at their most advantageous, then the efforts of law enforcement clearly are undermined.

Some of the information you have submitted to us for review and seek to withhold from public disclosure under section 3(a)(8) would, if released, undermine police security efforts at a specific time and location. We conclude that its release would undermine a legitimate law enforcement interest. For your convenience, we have marked the information which may be withheld from required public disclosure under section 3(a)(8).

The remainder of the information, however, is of a much more general nature than information addressed in previous decisions. Release of the information would not reveal whether any particular location, such as a business, street corner, or parking garage, is to be the focus of law enforcement at any given time. We are not convinced that release of the remaining information would unduly interfere with law enforcement. Accordingly, except as noted above, you may not withhold the requested information from required public disclosure under section 3(a)(8), and you must release it.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-240.

Yours very truly,



Kym Oltrogge
Assistant Attorney General
Opinion Committee

KKO/GCK/lmm

Ref.: ID# 15430
ID# 15483
ID# 15693

cc: Mr. Jim Mabe
3114 Seawall Boulevard
Galveston, Texas 77550